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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,238	01/14/2002	William J. Martin	133/108	9391

7590 10/20/2003
Averill & Varn
8244 Painter Ave.
Whittier, CA 90602

EXAMINER

NOLAND, THOMAS

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,238

Applicant(s)

MARTIN, WILLIAM J.

Examiner

Thomas P. Noland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. *

Attachment(s)

* (The priority claims have not been granted)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 filed 1/14/02
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follow:

This application is claiming the benefit of a prior filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior application is required.

Note 09/147,884 issued as patent No. 6,311,538 on Nov. 6, 2001, i.e., more than two months before the filing date herein of Jan 14, 2002. Since not copending with 09/197,884 applicant also can not claim the benefit of its priority application provisional application 60/070,839 filed Jan. 9, 1998. It is noted that no benefit can be claimed directly therewith since it was filed more than 1 year before the filing date herein.

2. The disclosure is objected to because of the following informalities: On page 1, line 5 “ a continuation in part of ” should be replaced with -- -- -- related to -- -- -- . In line 7 “ in turn ” should be deleted.

Appropriate correction is required.

3. Applicants petition to make special has been noted and will be treated after the mailing of this action. Any delay in acting thereon is regretted.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show the making of reference standards employing drilled holes. However neither they nor any other prior art of record showed or would have made obvious a method of forming controlled cracks in predetermined areas of a brittle plating of a test plate

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where a hole is drilled partway through a substrate, a point of a hardened tip is inserted therein and forced against the bottom of the hole to form cracks as set forth in claim 1.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (703) 305-4765. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (703) 305-4705.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

10/17/03

Thomas P. Noland
Primary Examiner
Art Unit 2856



Noland/ek
10/09/03